



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4332

by Rep. La Shawn K. Ford

SYNOPSIS AS INTRODUCED:

720 ILCS 5/8-4

from Ch. 38, par. 8-4

730 ILCS 5/5-8-1

from Ch. 38, par. 1005-8-1

Amends the Criminal Code of 2012. Provides that an attempt to commit first degree murder when the person who committed the attempt to commit first degree murder is 18 years of age or older at the time of the commission of the offense and the victim of the offense is under 18 years of age at the time of the commission of the offense is a Class X felony for which the sentence shall be a term of imprisonment of not less than 20 years and not more than 80 years. Amends the Unified Code of Corrections. Provides that the court shall sentence the defendant to a term of natural life imprisonment if the defendant, at the time of the commission of the murder, had attained the age of 18, and is found guilty of first degree murder of a person under 18 years of age.

LRB099 15365 RLC 39619 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by changing
5 Section 8-4 as follows:

6 (720 ILCS 5/8-4) (from Ch. 38, par. 8-4)
7 Sec. 8-4. Attempt.

8 (a) Elements of the offense.

9 A person commits the offense of attempt when, with intent
10 to commit a specific offense, he or she does any act that
11 constitutes a substantial step toward the commission of that
12 offense.

13 (b) Impossibility.

14 It is not a defense to a charge of attempt that because of
15 a misapprehension of the circumstances it would have been
16 impossible for the accused to commit the offense attempted.

17 (c) Sentence.

18 A person convicted of attempt may be fined or imprisoned or
19 both not to exceed the maximum provided for the offense
20 attempted but, except for an attempt to commit the offense
21 defined in Section 33A-2 of this Code:

22 (1) the sentence for attempt to commit first degree
23 murder is the sentence for a Class X felony, except that

1 (A) an attempt to commit first degree murder when
2 at least one of the aggravating factors specified in
3 paragraphs (1), (2), and (12) of subsection (b) of
4 Section 9-1 is present or when the person who committed
5 the attempt to commit first degree murder is 18 years
6 of age or older at the time of the commission of the
7 offense and the victim of the offense is under 18 years
8 of age at the time of the commission of the offense is
9 a Class X felony for which the sentence shall be a term
10 of imprisonment of not less than 20 years and not more
11 than 80 years;

12 (B) an attempt to commit first degree murder while
13 armed with a firearm is a Class X felony for which 15
14 years shall be added to the term of imprisonment
15 imposed by the court;

16 (C) an attempt to commit first degree murder during
17 which the person personally discharged a firearm is a
18 Class X felony for which 20 years shall be added to the
19 term of imprisonment imposed by the court;

20 (D) an attempt to commit first degree murder during
21 which the person personally discharged a firearm that
22 proximately caused great bodily harm, permanent
23 disability, permanent disfigurement, or death to
24 another person is a Class X felony for which 25 years
25 or up to a term of natural life shall be added to the
26 term of imprisonment imposed by the court; and

1 (E) if the defendant proves by a preponderance of
2 the evidence at sentencing that, at the time of the
3 attempted murder, he or she was acting under a sudden
4 and intense passion resulting from serious provocation
5 by the individual whom the defendant endeavored to
6 kill, or another, and, had the individual the defendant
7 endeavored to kill died, the defendant would have
8 negligently or accidentally caused that death, then
9 the sentence for the attempted murder is the sentence
10 for a Class 1 felony;

11 (2) the sentence for attempt to commit a Class X felony
12 is the sentence for a Class 1 felony;

13 (3) the sentence for attempt to commit a Class 1 felony
14 is the sentence for a Class 2 felony;

15 (4) the sentence for attempt to commit a Class 2 felony
16 is the sentence for a Class 3 felony; and

17 (5) the sentence for attempt to commit any felony other
18 than those specified in items (1), (2), (3), and (4) of
19 this subsection (c) is the sentence for a Class A
20 misdemeanor.

21 (Source: P.A. 96-710, eff. 1-1-10.)

22 Section 10. The Unified Code of Corrections is amended by
23 changing Section 5-8-1 as follows:

24 (730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)

1 (Text of Section before amendment by P.A. 99-69)

2 Sec. 5-8-1. Natural life imprisonment; enhancements for
3 use of a firearm; mandatory supervised release terms.

4 (a) Except as otherwise provided in the statute defining
5 the offense or in Article 4.5 of Chapter V, a sentence of
6 imprisonment for a felony shall be a determinate sentence set
7 by the court under this Section, according to the following
8 limitations:

9 (1) for first degree murder,

10 (a) (blank),

11 (b) if a trier of fact finds beyond a reasonable
12 doubt that the murder was accompanied by exceptionally
13 brutal or heinous behavior indicative of wanton
14 cruelty or, except as set forth in subsection (a) (1) (c)
15 of this Section, that any of the aggravating factors
16 listed in subsection (b) or (b-5) of Section 9-1 of the
17 Criminal Code of 1961 or the Criminal Code of 2012 are
18 present, the court may sentence the defendant to a term
19 of natural life imprisonment, or

20 (c) the court shall sentence the defendant to a
21 term of natural life imprisonment when the death
22 penalty is not imposed if the defendant,

23 (i) has previously been convicted of first
24 degree murder under any state or federal law, or

25 (ii) is a person who, at the time of the
26 commission of the murder, had attained the age of

1 17 or more and is found guilty of murdering an
2 individual under 12 years of age; or, irrespective
3 of the defendant's age at the time of the
4 commission of the offense, is found guilty of
5 murdering more than one victim, or

6 (iii) is found guilty of murdering a peace
7 officer, fireman, or emergency management worker
8 when the peace officer, fireman, or emergency
9 management worker was killed in the course of
10 performing his official duties, or to prevent the
11 peace officer or fireman from performing his
12 official duties, or in retaliation for the peace
13 officer, fireman, or emergency management worker
14 from performing his official duties, and the
15 defendant knew or should have known that the
16 murdered individual was a peace officer, fireman,
17 or emergency management worker, or

18 (iv) is found guilty of murdering an employee
19 of an institution or facility of the Department of
20 Corrections, or any similar local correctional
21 agency, when the employee was killed in the course
22 of performing his official duties, or to prevent
23 the employee from performing his official duties,
24 or in retaliation for the employee performing his
25 official duties, or

26 (v) is found guilty of murdering an emergency

1 medical technician - ambulance, emergency medical
2 technician - intermediate, emergency medical
3 technician - paramedic, ambulance driver or other
4 medical assistance or first aid person while
5 employed by a municipality or other governmental
6 unit when the person was killed in the course of
7 performing official duties or to prevent the
8 person from performing official duties or in
9 retaliation for performing official duties and the
10 defendant knew or should have known that the
11 murdered individual was an emergency medical
12 technician - ambulance, emergency medical
13 technician - intermediate, emergency medical
14 technician - paramedic, ambulance driver, or other
15 medical assistant or first aid personnel, or

16 (vi) is a person who, at the time of the
17 commission of the murder, had not attained the age
18 of 17, and is found guilty of murdering a person
19 under 12 years of age and the murder is committed
20 during the course of aggravated criminal sexual
21 assault, criminal sexual assault, or aggravated
22 kidnaping, or

23 (vii) is found guilty of first degree murder
24 and the murder was committed by reason of any
25 person's activity as a community policing
26 volunteer or to prevent any person from engaging in

1 activity as a community policing volunteer. For
2 the purpose of this Section, "community policing
3 volunteer" has the meaning ascribed to it in
4 Section 2-3.5 of the Criminal Code of 2012.

5 For purposes of clause (v), "emergency medical
6 technician - ambulance", "emergency medical technician
7 - intermediate", "emergency medical technician -
8 paramedic", have the meanings ascribed to them in the
9 Emergency Medical Services (EMS) Systems Act.

10 (d) (i) if the person committed the offense while
11 armed with a firearm, 15 years shall be added to
12 the term of imprisonment imposed by the court;

13 (ii) if, during the commission of the offense,
14 the person personally discharged a firearm, 20
15 years shall be added to the term of imprisonment
16 imposed by the court;

17 (iii) if, during the commission of the
18 offense, the person personally discharged a
19 firearm that proximately caused great bodily harm,
20 permanent disability, permanent disfigurement, or
21 death to another person, 25 years or up to a term
22 of natural life shall be added to the term of
23 imprisonment imposed by the court.

24 (2) (blank);

25 (2.5) for a person convicted under the circumstances
26 described in subdivision (b) (1) (B) of Section 11-1.20 or

1 paragraph (3) of subsection (b) of Section 12-13,
2 subdivision (d)(2) of Section 11-1.30 or paragraph (2) of
3 subsection (d) of Section 12-14, subdivision (b)(1.2) of
4 Section 11-1.40 or paragraph (1.2) of subsection (b) of
5 Section 12-14.1, subdivision (b)(2) of Section 11-1.40 or
6 paragraph (2) of subsection (b) of Section 12-14.1 of the
7 Criminal Code of 1961 or the Criminal Code of 2012, the
8 sentence shall be a term of natural life imprisonment.

9 (b) (Blank).

10 (c) (Blank).

11 (d) Subject to earlier termination under Section 3-3-8, the
12 parole or mandatory supervised release term shall be written as
13 part of the sentencing order and shall be as follows:

14 (1) for first degree murder or a Class X felony except
15 for the offenses of predatory criminal sexual assault of a
16 child, aggravated criminal sexual assault, and criminal
17 sexual assault if committed on or after the effective date
18 of this amendatory Act of the 94th General Assembly and
19 except for the offense of aggravated child pornography
20 under Section 11-20.1B, 11-20.3, or 11-20.1 with
21 sentencing under subsection (c-5) of Section 11-20.1 of the
22 Criminal Code of 1961 or the Criminal Code of 2012, if
23 committed on or after January 1, 2009, 3 years;

24 (2) for a Class 1 felony or a Class 2 felony except for
25 the offense of criminal sexual assault if committed on or
26 after the effective date of this amendatory Act of the 94th

1 General Assembly and except for the offenses of manufacture
2 and dissemination of child pornography under clauses
3 (a)(1) and (a)(2) of Section 11-20.1 of the Criminal Code
4 of 1961 or the Criminal Code of 2012, if committed on or
5 after January 1, 2009, 2 years;

6 (3) for a Class 3 felony or a Class 4 felony, 1 year;

7 (4) for defendants who commit the offense of predatory
8 criminal sexual assault of a child, aggravated criminal
9 sexual assault, or criminal sexual assault, on or after the
10 effective date of this amendatory Act of the 94th General
11 Assembly, or who commit the offense of aggravated child
12 pornography under Section 11-20.1B, 11-20.3, or 11-20.1
13 with sentencing under subsection (c-5) of Section 11-20.1
14 of the Criminal Code of 1961 or the Criminal Code of 2012,
15 manufacture of child pornography, or dissemination of
16 child pornography after January 1, 2009, the term of
17 mandatory supervised release shall range from a minimum of
18 3 years to a maximum of the natural life of the defendant;

19 (5) if the victim is under 18 years of age, for a
20 second or subsequent offense of aggravated criminal sexual
21 abuse or felony criminal sexual abuse, 4 years, at least
22 the first 2 years of which the defendant shall serve in an
23 electronic home detention program under Article 8A of
24 Chapter V of this Code;

25 (6) for a felony domestic battery, aggravated domestic
26 battery, stalking, aggravated stalking, and a felony

1 violation of an order of protection, 4 years.

2 (e) (Blank).

3 (f) (Blank).

4 (Source: P.A. 96-282, eff. 1-1-10; 96-1000, eff. 7-2-10;
5 96-1200, eff. 7-22-10; 96-1475, eff. 1-1-11; 96-1551, eff.
6 7-1-11; 97-333, eff. 8-12-11; 97-531, eff. 1-1-12; 97-1109,
7 eff. 1-1-13; 97-1150, eff. 1-25-13.)

8 (Text of Section after amendment by P.A. 99-69)

9 Sec. 5-8-1. Natural life imprisonment; enhancements for
10 use of a firearm; mandatory supervised release terms.

11 (a) Except as otherwise provided in the statute defining
12 the offense or in Article 4.5 of Chapter V, a sentence of
13 imprisonment for a felony shall be a determinate sentence set
14 by the court under this Section, according to the following
15 limitations:

16 (1) for first degree murder,

17 (a) (blank),

18 (b) if a trier of fact finds beyond a reasonable
19 doubt that the murder was accompanied by exceptionally
20 brutal or heinous behavior indicative of wanton
21 cruelty or, except as set forth in subsection (a) (1) (c)
22 of this Section, that any of the aggravating factors
23 listed in subsection (b) or (b-5) of Section 9-1 of the
24 Criminal Code of 1961 or the Criminal Code of 2012 are
25 present, the court may sentence the defendant, subject

1 to Section 5-4.5-105, to a term of natural life
2 imprisonment, or

3 (c) the court shall sentence the defendant to a
4 term of natural life imprisonment if the defendant, at
5 the time of the commission of the murder, had attained
6 the age of 18, and

7 (i) has previously been convicted of first
8 degree murder under any state or federal law, or

9 (ii) is found guilty of murdering more than one
10 victim, or

11 (iii) is found guilty of murdering a peace
12 officer, fireman, or emergency management worker
13 when the peace officer, fireman, or emergency
14 management worker was killed in the course of
15 performing his official duties, or to prevent the
16 peace officer or fireman from performing his
17 official duties, or in retaliation for the peace
18 officer, fireman, or emergency management worker
19 from performing his official duties, and the
20 defendant knew or should have known that the
21 murdered individual was a peace officer, fireman,
22 or emergency management worker, or

23 (iv) is found guilty of murdering an employee
24 of an institution or facility of the Department of
25 Corrections, or any similar local correctional
26 agency, when the employee was killed in the course

1 of performing his official duties, or to prevent
2 the employee from performing his official duties,
3 or in retaliation for the employee performing his
4 official duties, or

5 (v) is found guilty of murdering an emergency
6 medical technician - ambulance, emergency medical
7 technician - intermediate, emergency medical
8 technician - paramedic, ambulance driver or other
9 medical assistance or first aid person while
10 employed by a municipality or other governmental
11 unit when the person was killed in the course of
12 performing official duties or to prevent the
13 person from performing official duties or in
14 retaliation for performing official duties and the
15 defendant knew or should have known that the
16 murdered individual was an emergency medical
17 technician - ambulance, emergency medical
18 technician - intermediate, emergency medical
19 technician - paramedic, ambulance driver, or other
20 medical assistant or first aid personnel, or

21 (vi) (blank), or

22 (vii) is found guilty of first degree murder
23 and the murder was committed by reason of any
24 person's activity as a community policing
25 volunteer or to prevent any person from engaging in
26 activity as a community policing volunteer. For

1 the purpose of this Section, "community policing
2 volunteer" has the meaning ascribed to it in
3 Section 2-3.5 of the Criminal Code of 2012, ~~or-~~

4 (viii) is found guilty of first degree murder
5 of a person under 18 years of age.

6 For purposes of clause (v), "emergency medical
7 technician - ambulance", "emergency medical technician
8 - intermediate", "emergency medical technician -
9 paramedic", have the meanings ascribed to them in the
10 Emergency Medical Services (EMS) Systems Act.

11 (d) (i) if the person committed the offense while
12 armed with a firearm, 15 years shall be added to
13 the term of imprisonment imposed by the court;

14 (ii) if, during the commission of the offense,
15 the person personally discharged a firearm, 20
16 years shall be added to the term of imprisonment
17 imposed by the court;

18 (iii) if, during the commission of the
19 offense, the person personally discharged a
20 firearm that proximately caused great bodily harm,
21 permanent disability, permanent disfigurement, or
22 death to another person, 25 years or up to a term
23 of natural life shall be added to the term of
24 imprisonment imposed by the court.

25 (2) (blank);

26 (2.5) for a person convicted under the circumstances

1 described in subdivision (b) (1) (B) of Section 11-1.20 or
2 paragraph (3) of subsection (b) of Section 12-13,
3 subdivision (d) (2) of Section 11-1.30 or paragraph (2) of
4 subsection (d) of Section 12-14, subdivision (b) (1.2) of
5 Section 11-1.40 or paragraph (1.2) of subsection (b) of
6 Section 12-14.1, subdivision (b) (2) of Section 11-1.40 or
7 paragraph (2) of subsection (b) of Section 12-14.1 of the
8 Criminal Code of 1961 or the Criminal Code of 2012, the
9 sentence shall be a term of natural life imprisonment.

10 (b) (Blank).

11 (c) (Blank).

12 (d) Subject to earlier termination under Section 3-3-8, the
13 parole or mandatory supervised release term shall be written as
14 part of the sentencing order and shall be as follows:

15 (1) for first degree murder or a Class X felony except
16 for the offenses of predatory criminal sexual assault of a
17 child, aggravated criminal sexual assault, and criminal
18 sexual assault if committed on or after the effective date
19 of this amendatory Act of the 94th General Assembly and
20 except for the offense of aggravated child pornography
21 under Section 11-20.1B, 11-20.3, or 11-20.1 with
22 sentencing under subsection (c-5) of Section 11-20.1 of the
23 Criminal Code of 1961 or the Criminal Code of 2012, if
24 committed on or after January 1, 2009, 3 years;

25 (2) for a Class 1 felony or a Class 2 felony except for
26 the offense of criminal sexual assault if committed on or

1 after the effective date of this amendatory Act of the 94th
2 General Assembly and except for the offenses of manufacture
3 and dissemination of child pornography under clauses
4 (a)(1) and (a)(2) of Section 11-20.1 of the Criminal Code
5 of 1961 or the Criminal Code of 2012, if committed on or
6 after January 1, 2009, 2 years;

7 (3) for a Class 3 felony or a Class 4 felony, 1 year;

8 (4) for defendants who commit the offense of predatory
9 criminal sexual assault of a child, aggravated criminal
10 sexual assault, or criminal sexual assault, on or after the
11 effective date of this amendatory Act of the 94th General
12 Assembly, or who commit the offense of aggravated child
13 pornography under Section 11-20.1B, 11-20.3, or 11-20.1
14 with sentencing under subsection (c-5) of Section 11-20.1
15 of the Criminal Code of 1961 or the Criminal Code of 2012,
16 manufacture of child pornography, or dissemination of
17 child pornography after January 1, 2009, the term of
18 mandatory supervised release shall range from a minimum of
19 3 years to a maximum of the natural life of the defendant;

20 (5) if the victim is under 18 years of age, for a
21 second or subsequent offense of aggravated criminal sexual
22 abuse or felony criminal sexual abuse, 4 years, at least
23 the first 2 years of which the defendant shall serve in an
24 electronic home detention program under Article 8A of
25 Chapter V of this Code;

26 (6) for a felony domestic battery, aggravated domestic

1 battery, stalking, aggravated stalking, and a felony
2 violation of an order of protection, 4 years.

3 (e) (Blank).

4 (f) (Blank).

5 (Source: P.A. 99-69, eff. 1-1-16.)

6 Section 95. No acceleration or delay. Where this Act makes
7 changes in a statute that is represented in this Act by text
8 that is not yet or no longer in effect (for example, a Section
9 represented by multiple versions), the use of that text does
10 not accelerate or delay the taking effect of (i) the changes
11 made by this Act or (ii) provisions derived from any other
12 Public Act.